

REMARKS

Claims 1-3, 5, 6 and 8-15 are pending. Claims 4 and 7 have been canceled.

Claims 1 and 10 have been amended to recite the subject matter of claim 4.

Claim 8 has been amended to depend from claim 10.

No new matter has been added by way of the above-amendment.

I. Claim Objections

Claims 8 and 9 are objected to under 37 C.F.R. §1.75(c) as being in improper form for depending upon a cancelled claims. In response, Applicants have amended claim 8 to depend from claim 10. As such, withdrawal of the objection is respectfully requested.

II. Prior art based issues

The following prior art based rejections are pending:

- A. Claims 1-3, 6, 10-12 and 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Jayaraman et al. (U.S. Patent 6,147,177);
- B. Claims 4, 5, 13 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Jayaraman et al. as applied to claims 1-3, 6, 10-12 and 15 above, and further in view of Taguchi et al. (US 2004/0152843);
- C. Claims 1-3, 10-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Goodall et al. (US 2002/0128408) in view of Taguchi et al.; and
- D. Claims 1-5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Taguchi et al. in view of Suwa et al. (U.S. Patent 6,727,032).

Applicants respectfully traverse Rejections A-D.

It is noted that Rejections A and C do not include claim 4. Applicants respectfully submit that the above-amendment to claims 1 and 10 to recite the subject matter of claim 4, renders Rejections A and C moot.

Applicants now comment on Rejections B and D.

It is noted that Rejections B and D are each under 35 U.S.C. §103 and rely upon Taguchi et al. which is available under 35 USC 102(e). According to MPEP § 706.02(l)(1), effective November 29, 1999, subject matter which was prior art under former 35 U.S.C. § 103 via 35 U.S.C. § 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention "were, at the time the invention was made" owned by the same person or subject to an obligation of assignment to the same person."

MPEP § 706.02(l)(2) instructs that an attorney or agent of record may make a statement to the effect that that application and the reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person.

II - A. Statement Evidencing Common Ownership

The present application, and Taguchi et al. (US 2004/0152843) were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person.

II - B. Consequences Of The Above-Statement

Accordingly, Applicant respectfully submits that the reference, Taguchi et al., is not available as prior art under 35 U.S.C. § 102(e)/§ 103(a).

Since Rejections B and D each rely upon Taguchi et al., withdrawal of the rejections is respectfully requested.

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In view of the above amendment, applicant believes the pending application is in condition for allowance.

Conclusion

In view of the above remarks, it is believed that claims are allowable.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Garth M. Dahlen, Ph.D., Esq., Reg. No. 43,575 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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